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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;  
16 OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL ITS OFFERS OF PROOF  
REGARDING REASONABLE ROYALTY  
DAMAGES AND DISCLOSURE OF THE  
ASSERTED TRADE SECRETS**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal its offers of proof regarding reasonable royalty damages and disclosure of the asserted trade secrets (“Offers of Proof”). Specifically, Waymo requests an order granting leave to file under seal the documents as listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Ex. 1 to November 12 jury instruction submission (“Disclosure Offer of Proof”)	Entire document	Waymo and Defendants
Ex. 2 to November 12 jury instruction submission (“Reasonable Royalty Offer of Proof”)	Entire document	Waymo and Defendants

# **I. LEGAL STANDARD**

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

## **II. UBER’S CONFIDENTIAL INFORMATION**

Waymo seeks to seal the Offers of Proof in part because Defendants have designated the information confidential and/or highly confidential. Declaration of Lindsay Cooper (“Cooper Dec.”), ¶ 3. Waymo expects Defendants to file one or more declarations in accordance with the Local Rules. *Id.*

## **III. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION**

The Court should seal Waymo’s Offers of Proof. Waymo seeks to file this information under seal because it discloses Waymo’s trade secrets and confidential business information. *See Cooper Dec.*, ¶ 4. Courts have determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14–cv–03078–JSC, 2015 WL 3993147, at \*1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc’ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428 PSG, 2013 WL 211115, at \*1, \*3 (N.D. Cal. Jan. 17, 2013) (granting

1 request to seal document that “consists entirely of descriptions of Brocade’s trade secrets.”).  
2 Confidential business information that, if released, may “harm a litigant’s competitive standing” also  
3 merits sealing. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to  
4 seal confidential business information and trade secret information that fit squarely within these  
5 categories. Cooper Dec. ¶ 4. Waymo maintains this information as a trade secret (*see* Dkt. 25-31) and  
6 ensures the information remains secret with strict secrecy and security protocols (*see* Dkt. 25-47; Dkt.  
7 25-49.). *Id.* Waymo has narrowly tailored its requests to only information meriting sealing. *Id.* In  
8 fact, both *Music Grp.* and *Brocade* found the confidential information at issue in those cases met the  
9 heightened “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at \*1;  
10 *Brocade*, 2013 WL 211115, at \*1, \*3. The information that Waymo seeks to seal, therefore, also  
11 meets this heightened standard. The disclosure of Waymo’s trade secret and confidential business  
12 information would harm Waymo. Cooper Dec. ¶ 4. Thus, the Court should grant Waymo’s  
13 administrative motion to seal.

#### 14 **IV. CONCLUSION**

15 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the  
16 above listed documents accompany this Administrative Motion. For the foregoing reasons,  
17 Waymo respectfully requests that the Court grant Waymo’s Administrative Motion.

18  
19 DATED: November 12, 2017

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

20  
21 By /s/ Charles Verhoeven

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